DEVELOPMENT REVIEW COMMITTEE

Tuesday, August 30, 2016

MEETING MINUTES

The Monroe County Development Review Committee conducted a meeting on **Tuesday, August 30, 2016**, beginning at 1:00 p.m. at the Marathon Government Center, Media & Conference Room (1st floor, rear hallway), 2798 Overseas Highway, Marathon, Florida.

CALL TO ORDER

ROLL CALL by Gail Creech

DRC MEMBERS

Mayte Santamaria, Senior Director of Planning and Environmental Resources	Present
Mike Roberts, Senior Administrator, Environmental Resources	Present
Emily Schemper, Comprehensive Planning Manager	Present
Kevin Bond, Planning & Development Review Manager	Present
Steve Zavalney, Captain, Fire Prevention	Present

STAFF

Steve Williams, Assistant County Attorney	Present
Peter Morris, Assistant County Attorney	Present
Judy Clarke, Director of Engineering	Present
Devin Rains, Sr. Planner	Present
Janene Sclafani, Planner	Present
Gail Creech, Sr. Planning Commission Coordinator	Present

CHANGES TO THE AGENDA

Ms. Santamaria stated Item 6 was continued and Items 2 and 3 will be read together.

MINUTES FOR APPROVAL

Ms. Santamaria approved the meeting minutes of July 25, 2016, with a change to be made on Page 7 regarding a lease.

MEETING

New Items:

1.Tavernier Inn and Café Moka, 91865 Overseas Highway, Tavernier, mile marker 92: A public meeting concerning a request for a Minor Conditional Use Permit. The requested approval is required for the proposed redevelopment of the existing hotel into six (6) attached affordable employee housing dwelling units, and retention of an existing 1,780 square feet of medium intensity commercial retail floor area. The subject property is described as Lots 1, 2, 3, 4, 5, 36, and 37, Block A. Tavernier No. 2 (PB2-8), together with that portion of the alley as

disclaimed in Official Records Book 405, Page 1100, Monroe County, Florida, having real estate number 00555610.000000.
(File 2016-082)

Ms. Schemper presented the staff report. Ms. Schemper reported that this is a request for a minor conditional use permit to change the use of the complex of a historic building known as Tavernier Inn from hotel to six attached affordable employee housing dwelling units. Included in that development plan is an existing 1,780 square feet of medium intensity commercial retail currently known as Café Moka that is proposed to remain on the site. Ms. Schemper described the site and its designations. Ms. Schemper further reported that the individual building has been designated as a historical landmark by the BOCC since 1996. In August of this year the Planning Director signed a development order approving the minor conditional use permit to transfer 18 transient ROGO exemptions for the hotel rooms from the Tavernier Inn to the hotel known as Playa Largo. This approval is currently in its 30-day appeal period and will expire around September 19. Then it needs to go to DEO for their 45-day review period. This is not effective yet, but one of the conditions of the conditional use permit is that no building permit shall be issued for the hotel rooms requiring the TREs at Playa Largo until the structures of the hotel rooms at Tavernier Inn are converted to another permitted use per an issued building permit and final certificate of occupancy.

Ms. Schemper then reviewed the nonconforming review items. Compliance with ROGO will be determined at the time of building permit issuance. Before any building permit can be issued for the conversion of a hotel room to an affordable employee housing unit the applicant has to obtain a ROGO allocation for each of those affordable housing units proposed before they can get their building permit. Prior to the issuance of a building permit for any of the proposed affordable employee housing units a restrictive covenant needs to be approved by the County and recorded with the Clerk to ensure compliance with Section 130-161 of the LDC regarding affordable and employee housing. Ms. Schemper clarified that the applicant is proposing that 4,244 square feet of floor area become those six employee housing units with slightly less than 4,000 square feet that will be used as accessory space for the dwelling units. Consequently the accessory space is less floor area than the primary residential use being proposed.

Ms. Schemper stated that none of the required setbacks are met, but historic buildings cannot be moved, cannot be changed, so they are lawfully nonconforming. The proposed change of use does not include any external changes to the structures on the site, so they are not proposing to put anything else in the setbacks. The overall required parking for the residential use plus the restaurant use would be 21 spaces. The site plan proposed shows 19 spaces. Staff has determined that based on the site's historic designation, the size of the site and the physical layout of the existing historic structures that the provision of 19 parking spaces would be compliant with the parking requirement according to Section 102-596 of the LDC. Ms. Clarke commented that the County generally tries to discourage parking that backs onto a right-of-way, but she understands that this is all historic and existing. Ms. Schemper replied that the applicant is making the parking number-wise more compliant than it was previously.

Mr. Schemper continued to report that the required loading and unloading spaces are an existing nonconformity. The applicant is not requesting any changes to the nonresidential use on the site

and the historic buildings cannot be moved. The required parking lot landscaping is also an existing nonconformity and no changes to the parking lot area are being requested. Aerial photography and previous site plans show that this is how the parking has been for a very long time. There are some required bufferyards between zoning districts that the applicant has agreed to put in. Again, they cannot come into full compliance, so this too falls under Section 102-59 where it has to come into compliance to the greatest extent practicable. The site plan delivered to staff today shows a fence and dumpster station on the corner of the property that encroaches into the right-of-way. Staff has asked the applicant to remove that from the site plan and find another area on the site where they can put a collection area for recycling and solid waste. Staff is recommending approval with conditions. Those conditions, as outlined in the staff report, were read aloud.

Jorge Cepero, present on behalf of the applicant, declined to speak.

Ms. Santamaria asked for public comment. There was none.

Mr. Zavalney stated since the use is going from a hotel to a mixed use or multiple occupancy with commercial and changing to a different residential designation the applicant is going to have to come into compliance with code for new construction for the residential area, which will require a fire alarm and fire protection system. A building permit will not be issued without this requirement.

2.AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY COMPREHENSIVE PLAN POLICY 101.5.25, PROVIDING A MAXIMUM NET DENSITY OF ONE DWELLING UNIT PER PLATTED LOT WITH THE TRANSFER OF ONE TDR FOR THE DEVELOPMENT OF ONE TIER 3 PLATTED LOT WITH AN RL FUTURE LAND USE MAP DESIGNATION AND WITHIN AN SR ZONING DISTRICT; AND PROVIDING A MAXIMUM NET DENSITY OF ONE DWELLING UNIT PER PARCEL EXISTING PRIOR TO SEPTEMBER 15, 1986 WITH THE TRANSFER OF ONE TDR FOR THE DEVELOPMENT OF ONE TIER 3 PARCEL THAT WAS SUBDIVIDED FROM A TRACT WITHIN AN APPROVED AND RECORDED PLATTED SUBDIVISION PRIOR TO SEPTEMBER 15, 1986 WITH AN RM FUTURE LAND USE MAP DESIGNATION AND WITHIN AN IS ZONING DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR INCLUSION IN THE MONROE COUNTY COMPREHENSIVE PLAN; PROVIDING FOR AN EFFECTIVE DATE.
(File #2016-107)

3.AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 130-157, MAXIMUM RESIDENTIAL DENSITY AND DISTRICT OPEN SPACE, PROVIDING A MAXIMUM NET DENSITY OF ONE DWELLING UNIT PER PLATTED LOT WITH THE TRANSFER OF ONE TDR FOR THE DEVELOPMENT OF ONE TIER 3 PLATTED LOT WITHIN AN SR ZONING DISTRICT; AND PROVIDING A MAXIMUM NET DENSITY OF ONE DWELLING UNIT PER PARCEL EXISTING PRIOR TO SEPTEMBER 15, 1986 WITH THE TRANSFER OF ONE TDR FOR THE DEVELOPMENT OF ONE TIER 3 PARCEL

THAT WAS SUBDIVIDED FROM A TRACT WITHIN AN APPROVED AND RECORDED PLATTED SUBDIVISION PRIOR TO SEPTEMBER 15, 1986 WITHIN AN IS ZONING DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR INCLUSION IN THE MONROE COUNTY LAND DEVELOPMENT CODE; PROVIDING FOR AN EFFECTIVE DATE.
(FILE #2016-108)

Ms. Schemper presented the staff reports. Ms. Schemper reported that these two amendments were proposed by the Planning and Environmental Resources Department to revise the maximum net density standards in Policy 101.5.25 of the comp plan and Section 130-157 of the LDC for the residential low and residential medium FLUM categories and the suburban residential and improved subdivision zoning districts. Staff has initiated these amendments based on direction from the BOCC to allow some owners of platted lots within the SR zoning district that lacked the minimum land area required to apply for a single-family residence with the transfer of one transferable development right. While staff was putting together the proposed amendment for the SR zoning density as directed by the BOCC they have also been evaluating the potential for an amendment to the density requirements that would allow owners of unplatted parcels that existed before September 15, 1986, when the zoning maps were put together and now have IS zoning to apply for a ROGO allocation or to build a single-family residence by using a transferable development right. Staff is combining these into one amendment proposal because of their similar purpose, analysis and data.

Ms. Schemper continued to report that the proposed comp plan and code amendment are almost identical. In the comp plan for the residential low FLUM category and then in the code for the suburban residential zoning category under maximum net density staff is proposing to add an additional maximum net density standard of one dwelling unit per lot with one footnote. It is not just one dwelling unit per lot, but it also has to comply with the requirements in the footnote, which says, "Within the residential low future land use category or within the suburban residential zoning category the maximum net density for platted lots shall be one dwelling unit per platted lot provided all of the following conditions are met." The conditions are as follows: One, The parcel must by one full platted lot shown on a plat approved by the County and duly recorded; Two, The platted lot may not be identified for any other use or purpose on the plat; Three, The platted lot must have a tier designation of Tier III; Four, Notwithstanding Policy 101.13.2, the maximum net density may only be reached with the transfer of one full TDR to the SR lot regardless of the size of the lot and the allocated density assigned to it; Five, The TDR must meet all requirements and procedures specified in Policy 101.13.3 and Section 130-160 of the LDC; and Six, The subject parcel must comply with Policy 301.2.5 regarding legal access, which states that in order to proceed with development a parcel shall have legal access to public or private road, rights-of-way or easements, or such access shall be established.

Ms. Schemper explained that the typical size of platted lots with the County's SR subdivision is much less than the required density standards for the SR zoning district and RL FLUM designations. Staff is proposing that Tier III platted lots and subdivisions with SR zoning could potentially develop one dwelling unit under max net density if they transfer one full TDR to the

SR site regardless of the size of the parcel and regardless of how much allocated density they have on the site. Ms. Santamaria noted that this is directed by the BOCC. Ms. Schemper explained there is no gain in density countywide because one development right is being retired to develop one unit somewhere else.

Ms. Schemper further reported that for the residential medium FLUM and the improved subdivision zoning it is similar, but slightly different. Staff is proposing that the comp plan and LDC maximum net density standard would be one dwelling unit per pre-1986 parcel, again with a footnote. Within the RM future land use category the IS zoning district the maximum net density shall be one dwelling unit per parcel for parcels that meet all of the following conditions: One, The parcel must be subdivided from a tract identified on a plat approved by the County and duly recorded; Two, The parcel must have been subdivided within the tract before September 15, 1986; Three, The applicant must provide sufficient evidence that the parcel was subdivided before September 15, 1986, from a tract not included on an improved plat by boundary survey, deed, etc.; Four, The tract from which the subject IS parcel was subdivided may not be identified for any other use or purpose on the plat; Five, The subject parcel may not be part or all of a platted lot; Six, The parcel must have a tier designation of Tier III; Seven, The maximum net density may only be reached with the transfer of one full TDR to the IS parcel; Eight, The TDR must meet all requirements and procedures specified in Policy 101.13.3 and Section 130-160; and, Nine, The specific parcel must comply with Policy 301.2.5 regarding legal access.

Ms. Schemper explained that the allocated density requirements for the RM FLUM and IS zoning require a parcel to be a duly recorded lot on a plat approved by the County in order to develop a single-family residential dwelling unit. This was established in the Monroe County 1986 land development regulations. A plat was required for division of land into three or more parcels or division of land into two or more parcels if a disclosure was not included that said the division of the land does not necessarily mean that a dwelling unit can be built on it. There are some parcels that were created without plat approval or that contain land that was on a plat but only identified as a tract. Those types of parcels do not meet the definition of a lot and, therefore, are unable to be approved for a single-family dwelling unit on them. In the comp plan and the LDC the RM FLUM and IS zoning do not have a maximum net density standard, so TDRs are not even an option with these types of parcels. Most of these parcels were designated IS with the adoption of the zoning map in 1986 and designated as RM with the adoption of the FLUM in 1993. So staff is proposing that parcels that do not meet the definition of "lot," but were subdivided prior to the adoption of the IS zoning district, which was September 15, 1986, from tracts of land that were identified on a plat be given the opportunity to develop one dwelling unit by transferring one TDR to the parcel and retiring the development rights for one dwelling unit on the TDR sender site. Again, this would not create a net increase in development potential in the County. They would have to meet all requirements for TDRs. After some preliminary analysis it was determined that about 215 parcels may qualify as parcels subdivided before September 16, 1986, from a tract of land identified on a plat, although this does not take into account things like the tier. If this amendment is adopted every parcel would have to be individually evaluated at the time of application. This applies to both IS and the SR amendments. The TDR sender and receiver site criteria would have to be met. Ms. Schemper then outlined that criteria. Ms. Schemper added that staff is proposing to add for the purposes of max net density calculations for platted lots in the SR district and for pre-1986 parcels in the IS

district open space shall not be deducted from the area of the site so that no one can argue the maximum net density is one dwelling unit per lot. Ms. Santamaria pointed out that staff added in Policy 301.2.5 for the legal access because some tracts may not have paved roads.

Ms. Schemper stated for the comp plan amendment staff has found that the proposed amendment is consistent with the comp plan, LDC, the principles for guiding development, Florida Statutes, and staff recommends approval of the proposed amendments to Policy 101.5.25. For the LDC amendment staff again found that it is consistent with the Monroe County comp plan, the principles for guiding development, Florida Statutes and the LDC, and the LDC allows the BOCC to make an amendment if it meets one of the six required criteria. Staff has found that this amendment addresses new issues. The County is proposing the text amendments to address the maximum net density for the RL and RM future land use categories as part of the comp plan text amendment. The proposed amendment to the code Section 130-157 is necessary to be consistent with that proposed comp plan amendment. Florida Statute requires that land development regulations be consistent with the intent of the comp plan. Staff has also found that this is in recognition of the need for additional detail for comprehensiveness. For a similar reason the proposed amendment addresses the proposed comp plan policies related to max net density for SR and IS zoning and must be consistent and staff has found that this is based on data updates, the data updates regarding the number of IS parcels and SR lots that do not meet the density requirements of the LDC. Ms. Schemper stated that staff recommends approval of the proposed amendments to LDC Section 130-157 as well.

There were no staff comments or questions.

Ms. Santamaria asked for public comment.

Estaban Madruga, property owner of 1523 Shaw Drive, stated his property is one of the many lots affected by the change in the definition of "lot" and today's proposed amendment. Mr. Madruga provided a brief history of his property. The lot was purchased in 2001 with the understanding that it was a buildable lot, which was evidenced by: An existing concrete dock previously built legally on the lot; homes under construction directly adjacent to the property on the north and south; and, most importantly, the assessed market value at the time of purchase was equal to that of a buildable lot. The property taxable market value has steadily increased for the last 15 years. In 2013 Mr. Madruga received a ROGO allocation award and in 2015 final review and approval was given to pay the fees and pick up the building permit. The project was temporarily postponed for unforeseen circumstances. This year, in preparation to move forward with the project, the Madrugas were informed by the Building Department that although the permit had expired, a new permit could not be applied for because of the new change in policy. Therefore, there were no longer development rights to the property. Mr. Madruga emphasized that the new policy decisions do not just affect lots and parcels, but they affect people's lives and the lives of their families. Mr. Madruga believes it is unjust and morally wrong for the County to treat the remaining undeveloped lots this way. Although appreciative of the attempt to solve this issue, Mr. Madruga feels this amendment only suits the interest of the County and not that of the property owners. Mr. Madruga read aloud Monroe County BOCC Resolution Number 226-2012: "Whereas, the Florida Department of Economic Opportunity and the local governments recognize the need to balance limiting the maximum number of building permits for new

construction residential units to be issued annually in the Florida Keys with fairness and the consideration of private property rights." The fact the County has decided to take away his development rights, yet still bills property taxes based on the value of a buildable lot, leads Mr. Madruga to believe that he has legal recourse. Mr. Madruga asked that this amendment be rejected and a new amendment be adopted that is fair and just for the remaining lot owners in his subdivision that will transfer back development rights at no additional cost to the property owners.

Van Fischer, attorney representing Henry Olynger, a property owner in Ramrod Key affected by the new definition of "lot," commended staff for initiating the process to find a workable solution to this unplatted lot/parcel issue. Mr. Fischer stated his client submitted a building application that was denied because his property falls under the new definition of "lot." These unplatted lots or parcels would have received a building permit before the definition change, but no longer qualify for the density allocation of one dwelling unit per lot and are, therefore, unbuildable. The proposed TDR approach is not a complete solution to the problem because it requires property owners to buy another buildable lot and transfer those developments to a property that historically was a buildable lot. There still exists a takings issue. Mr. Fischer believes simple solutions to this matter include amending the definition of "lot" to include these pre-1986 unplatted parcels or amending the density allocation to allow one dwelling unit per parcel for these 1986 unplatted parcels. Another option would be to tie it to some sort of area, for example, within IS zoning or Tier III designations. These unplatted parcels were factored into the ROGO allocation system, which is evidenced by both the Patterson and Craig maps showing these unplatted parcels as lots on the maps zoned IS. Mr. Fischer's client's lot is a Tier III parcel in IS zoning, where the County comp plan and code directs infill development to occur. Another simple solution would be to simply treat the 215 parcels affected by this definition change as regular IS lots, which is how they were treated historically before the definition change. Some of those same parcels would have further constraints on development. Mr. Fischer recommended evaluating additional alternatives which would result in a simpler fix, such as granting 50 percent of those lots allocation on a first come/first served basis since these lots were part of the ROGO system. This is an approach that gives people ready to build the opportunity to move forward, but also puts others on notice that if they are serious about building they need to act now. This would provide adequate notice and remedies, which are considerations in the takings realm. Mr. Fischer believes it is important to include existing houses that are on these unplatted parcels or lots to make sure that they have the ability to rebuild their homes in a situation if their homes are destroyed.

Richard Mahshie, property owner of a lot on Shaw Drive, also applauds the effort in trying to come to a solution. Mr. Mahshie believes it is impractical to have to buy another piece of property to maintain the homeowners' rights. He has been paying taxes on this property since 1975. Mr. Mahshie stated he is still being charged for sewer access for which money was borrowed from the County and interest is being paid on that money. Mr. Mahshie would like to see good faith shown by both the County and the affected property owners. Real people and families are being affected by this policy and this should not be treated as just a business proposition. Mr. Mahshie agrees with the suggestion of giving two years' notice to allow those ready to build to move forward. Mr. Mahshie described how the property owners in his neighborhood take care of this area together voluntarily by cleaning up dumped trash, paving

sections of roadway and trimming the mangroves off the roadway. Mr. Mahshie emphasized the fact these lots were not properly platted is a mere discrepancy that is currently affecting people negatively.

D.J. Miller, owner of 1511 Shaw Drive, applauded staff for not closing the door completely and trying to find a solution. Mr. Miller agrees that the current situation is as a result of these lots not being correctly platted, which is costing property owners hundreds of thousands of dollars. Mr. Miller did not see a disclaimer in his property records. Mr. Miller's neighbors have been able to develop their lots and improve their properties and now, after this definition change, anybody who has not built on their property has an unbuildable lot. Mr. Miller believes probably only 60 percent of the 215 affected parcels would consider building. Mr. Miller is concerned about the time frame in which this will be resolved because of the fact there are only 1700 permits left on buildable properties. Having to spend 50-60,000 more for a transferable lot and then hoping there are any permits left is an undue hardship on the affected property owners. Everything about Mr. Miller's lot is compliant except for the word "lot." Mr. Miller is asking for a reasonable solution.

John Slattery, owner of 1516 Shaw Drive, thanked staff for getting to this point where consideration is being given to solutions. Mr. Slattery pointed out that the primary purpose of the ordinance that changed the definition of "lot" was to change setbacks on different types of lots around the County. Mr. Slattery asked Ms. Santamaria whether this current situation is either a result of an unintended consequence or to intentionally lessen the number of buildable lots in the County. Mr. Williams advised Ms. Santamaria to not answer that question and then asked Mr. Slattery to keep the scope of the questions relative to the proposed ordinance. Mr. Slattery does not believe the affected property owner should be required to go buy another lot and take another lot out of the ROGO system if this is an unintended consequence of the ordinance. Mr. Slattery finds it difficult to understand all of the different effective dates' significance because building permits were issued up through 2015. Mr. Slattery stated any solution that causes the affected property owners to spend a lot of money to do it is inverse condemnation. Mr. Slattery asked who has actually seen the disclosure statement where a seller of a lot is required to disclose that it is a deeded parcel, not a platted lot and may not be buildable. Ms. Santamaria replied that staff is not involved in real estate transactions, but that disclosure has been in place since 1986 and should be occurring on deeds. Mr. Williams suggested Mr. Slattery take that up with the title company if his deed is invalid. Mr. Slattery stated even though case law says the seller of a lot in residential real estate has to disclose any material factors affecting value, there is no way to prove the seller knew about it. The seller had every reason to believe this lot was buildable. Ms. Santamaria confirmed for Mr. Slattery that staff did not know there would be 215 deeded affected parcels as a result of the ordinance at the time it was amended. Mr. Slattery asked who would be speaking with the Property Appraiser to make sure that all of these affected properties are assessed correctly going forward. Ms. Santamaria recommended Mr. Slattery speak to the Property Appraiser regarding his property. Mr. Slattery asked for Ms. Santamaria's thoughts on the sewer systems being run to the lots and the lots being specially assessed for that. Mr. Morris advised Ms. Santamaria will not be answering that question. Mr. Slattery asked that an amendment be made to the "lot" definition or an amendment be made to the density so that the affected property owners do not have the added expense of buying properties to transfer the TDRs. Ms. Santamaria replied that staff will go

back and evaluate the suggestions being made to see if there are other options. Ms. Santamaria informed Mr. Slattery any member of the public can apply for a text amendment to the comp plan and the code. The number of houses built on deeded lots is always shifting. Again, staff does not get involved in real estate transactions. Mr. Morris asked Mr. Slattery to move on to his next point. Mr. Slattery read aloud Section 130-163 and stated this section affects all of those property owners that built after January 4, 1996. Mr. Slattery believes the way the County is handling this issue will result in massive amounts of inverse condemnation that could bankrupt the County. Mr. Slattery asked the County to give the affected property owners back their building rights the way that they were, change the definition of a "lot" back to a deeded parcel, a parcel for individual use instead of a platted lot in a plat approved by the County, or give a density allocation to those particular deeded parcels in Tier III and consider them conforming. Mr. Slattery stated the proposed solution creates more problems.

D.J. Miller asked who is responsible for informing the public of the disclosure. Mr. Morris explained under Florida law the public is deemed to have what is called constructive notice for all duly enacted ordinances, so just because someone does not know the law does not mean that they are exempt from it. Mr. Miller stated he never had notice of that and the Building Department told him that his property was buildable. Ms. Santamaria added it is in the LDC and in the comp plan since 1986 and those who do deeds and real estate transactions should have been implementing that disclosure.

Bill Hunter, resident of Sugarloaf Key, asked what the strike-through was for in the staff report under Nonresidential. Ms. Santamaria explained that retail is not allowed in suburban residential, so that is just a correction.

Susan Slattery asked what constitutes a paved road. Ms. Clarke replied that the County standards for a paved road is 20-foot wide asphalt pavement with an eight-inch base for one lane each way. Ms. Santamaria noted that part of the reason Policy 301.2.5 was specifically added is because the Shaw Drive parcels do not have the dedicated right-of-way or road, but there are easements that have established the right-of-way of transgressing through those properties. Those easements would have to be maintained and some sort of paving would have to be done there to qualify.

Mr. Mahshie asked if his house gets totaled from a storm would the County give him a permit to rebuild or repair his home. Ms. Santamaria replied that is outside the scope of this amendment and then explained the ROGO exemption process. Mr. Slattery asked for an option that makes all of the deeded parcels in question clearly conforming without having to buy another parcel to get the building rights back. Ms. Santamaria repeated that staff will evaluate all comments given today.

4.<u>Key Marina Development LLC, 97617 Overseas Highway/30, 43 & 80 East Second Street, Key Largo, mile marker 97.6 oceanside:</u> A public meeting concerning a request for a Major Conditional Use Permit. The requested approval is required for the proposed development of 22 permanent, market-rate dwelling units and three (3) transient hotel rooms. The subject property is legally described as Lots 1-8 & 30-33, Block 2; Part of Block 3; Lots 1 & 2, Block 4; parts of East First Street and East Second Street abandoned by BOCC Resolution Nos. 603-2006 and

493-2007 and adjacent bay bottom, Mandalay Subdivision (Plat Book 1, Page 194), Key Largo, Monroe County, Florida, having real estate number 00554420-000000, 00554670-000000, 00554700-000000, 00554730-000000 and 00554740-000000.
(File 2016-076)

Mr. Bond presented the staff report. Mr. Bond reported that this proposed major conditional use is for the proposed development of 22 permanent market rete dwelling units designed as attached vacation rentals, three transient hotel rooms, 4,976 square feet of commercial retail restaurant and accessory uses. Mr. Bond recited the history of development approvals on this property. Staff recommends approval with conditions, many of which involve making corrections to the plans or needing additional information. A new set of revised plans has been received, but staff has not had a chance to review them to see if all the corrections were made. The major ones have to do with the required improvements within Second Avenue and also comments for the Fire Marshal, the County's transportation consultant and the County engineer.

Ms. Clarke stated there are some inconsistencies on the plans because of the different people working on different part of the plans. Ms. Clarke asked that the plans be submitted with more consistency so everything can be evaluated together. Ms. Clarke asked if the site is being raised. Ms. Clarke stated there has to be access shown from the roundabout area to the restaurant parking.

David deHaas, design consultant for the applicant, was present, as well as a senior partner of the applicant, Mark Gerenger. Mr. deHaas explained what happened with the submissions of the plans was the developer was trying to get ahead because of the timeline involved in the development agreement. Any revised plans will be at grade. Plans will be resubmitted more succinctly in the future. Ms. Clarke voiced concern about the entranceway being so close to the driveway access. Mr. Zavalney asked that more clearance be allowed for the porte cochere across the driveway. Ms. Clarke then stated the stormwater for the roundabout should be handled within the development and not as part of the roadway. Mr. Gerenger noted that they have the lease to the right-of-way where the restaurant encroaches and they are looking to renew it. Ms. Santamaria added that that has to be evaluated with the development as well. Ms. Clarke asked that if it is renewed it be adjusted because the current easement partially extends into the roundabout area. Mr. Zavalney discussed access that will be needed as a result of the abandonment of East Second Street and East First Street. Mr. deHaas asked that the requirements for vacation rentals is allowed for in the proposals. Ms. Santamaria stated that will be addressed later. Mr. Roberts asked for grading plans that show what is happening to the water either in the right-of-way or on the site, as well as geotechnical information with grading information so that staff can evaluate whether or not the stormwater management system will function as designed

Bill Hunter of Sugarloaf Key asked Ms. Santamaria to speak to the sequence of approval for this project and the sequence of approval for the height exemption. Ms. Santamaraia explained that this item is a major conditional use. After receiving all the revisions it will go before the Planning Commission, which is actually the body that decides to approve it or not. It then gets rendered to DEO for review and potential appeal for approval. At the same time the height amendment will be worked on, which is separate from this process. Ms. Santamaria described

that process. It would be at least six months before any height exemption is effective. Ms. Santamaria described these as attached residential dwelling units in the urban residential zoning district and three hotel rooms in the mixed use/commercial zoning district. Ms. Santamaria stated staff is recommending approval with all of the conditions listed in the staff report and staff will be evaluating any future submissions.

5.AN ORDINANCE OF THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS REPEALING SECTION 126-14 "EMPLOYEE HOUSING FAIR SHARE IMPACT FEE" OF THE MONROE COUNTY LAND DEVELOPMENT CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR INCLUSION IN THE MONROE COUNTY CODE; AND PROVIDING FOR AN EFFECTIVE DATE.
(File 2016-117)

Ms. Santamaria presented the staff report on behalf of Ed Koconis. Ms. Santamaria reported that this is a text amendment for the LDC as directed by the BOCC. The BOCC evaluated the County's impact fees in May 2016 and directed staff to specifically eliminate certain impact fees. The first item staff is processing is the Employee Housing Fair Share impact fee. This would be striking all of Section 138-56. The original impact fee was adopted to exlusively offset the cost of required permitting for affordable housing on other sites and other projects.

There were no questions or comments from staff. Ms. Santamaria informed Mr. Hunter the backup for this is online in the staff report.

6.Henderson Building, Overseas Highway, Big Pine Key, mile marker 30: A public hearing concerning a request for a Minor Conditional Use Permit. The requested approval is required for the development of a proposed 8,000 square foot building with 2,600 square feet of commercial retail, low intensity and office uses and six attached dwelling units designated as employee housing. The subject property is described as a parcel of land in Section 26, Township 66 South, Range 29 East, Big Pine Key, Monroe County, Florida, also known as Lots 12 and 13 or an unrecorded Plat of survey by C.G. Bailey, Reg. Florida Land Surveyor, No. 620 and dated September 19, 1952, having real estate number 00111560-000000.
(File 2015-218)

This matter was continued

ADJOURNMENT
The Development Review Committee meeting was adjourned at 3:17 p.m.